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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,517

11/16/2006

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EXAMINER

HUYNH, NAM TRUNG

ART UNIT

PAPER NUMBER

2617

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/564,517	<b>Applicant(s)</b> JANKO ET AL.	
	<b>Examiner</b> NAM HUYNH	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/12/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 10/12/06 is being considered by the examiner.

### ***Response to Amendment***

This office action is in response to preliminary amendment filed on 1/13/06. Of the previously presented claims 1-19; claims 2-16, 18, and 19 have been amended.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 3, 4, 6, 7, 14, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 1 and 16 recites the limitation "the user data" in line 7. There is insufficient antecedent basis for this limitation in the claim because there is no previous

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recitation of "user" data. Accordingly for examination purposes, this limitation will be interpreted as "useful" data, which is the Examiner's best interpretation of the claim language.

6. Regarding claims 3, 6, 14, and 17, the phrases "i.e." and "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

7. Regarding claims 4 and 7, a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 4 recites the broad recitation that "the first channel used for the transmission of signaling data and/or the second channel transmit(s) useful data in a packet switched manner" and the claim also recites that the packet switched manner is

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“in particular by GPRS, UMTS, etc.” which is the narrower statement of the range/limitation.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Dahod et al. (US 2004/0224678).

Regarding claim 1, Dahod teaches a method for establishing a connection between a mobile radio user initiating the establishment of the connection (originating sender) and further mobile radio users of a group of mobile radio users (group of recipients) via at least one mobile radio network (figure 1), with useful data (voice signal) to be transmitted between the mobile radio user initiating establishment of the connection and further members of the group also being transmitted in addition to signaling data (request signal) via a first channel on establishment of the connection (channel between the IMG and originating sender established with the request signal), until a second channel (connection with the recipients) is also established for the connection, whereupon the useful data (voice signal) is transmitted via the second

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channel (the IMG relays the voice signal once connection with the recipients have been established) (paragraphs 28, 29; When the originating sender initiates the communication by sending a request signal, or signaling data, the IMG promptly receives the voice signal, or useful data object, to be sent to the recipients, thus teaching that the useful data object is sent with the signaling data. Then when a communication link, or second channel, is established between the IMG and the recipients, the stored voice signal is relayed to the recipients, thus teaching that a second channel is also established for which the useful data is sent.)

Regarding claim 2, Dahod teaches the channel used for the transmission of signaling data is a PDP context (IP) (paragraphs 23, 24).

Regarding claim 3, Dahod teaches the second channel is a further PDP context (IP) (paragraphs 23, 24).

Regarding claim 4, Dahod teaches the first channel used for the transmission of signaling data and/or the second channel transmit(s) useful data in a packet-switched manner, in particular by GPRS, UMTS, etc. (figure 1).

Regarding claim 5, Dahod teaches the mobile radio network is a cellular mobile radio network (figure 1).

Regarding claim 6, Dahod teaches the connection is established for mobile radio network services, requiring the fastest possible availability of useful data transmission, e.g. push to talk (paragraph 28).

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Regarding claim 7, Dahod teaches the initiation of the establishment of the connection takes place on detection of an input at a mobile radio terminal of a mobile radio user, in particular when the pushing of a button is detected (paragraph 32).

Regarding claim 8, Dahod teaches the first channel used for the transmission of signaling data runs from a mobile station of the mobile radio user initiating establishment of the connection to a switching center of a mobile radio network (paragraphs 26, 28; request message is sent to IMG which may include the MSC).

Regarding claim 9, Dahod teaches the channel used for the transmission of signaling data runs from a mobile station via an SGSN and/or a GGSN (IMG) (paragraph 25).

Regarding claim 10, Dahod teaches the mobile radio users participating in the service are stored in a mobile radio network and/or a mobile radio terminal (paragraphs 37, 38).

Regarding claim 11, Dahod teaches the connection is established such that useful data from every member of the group is transmitted to individual or all other members of the service (paragraph 29).

Regarding claim 12, Dahod teaches the useful data is transmitted between every member of the group and a mobile radio network first via a first channel used for the transmission of signaling data (connection established when request message is sent) and then via another channel (channels established with recipients), which could provide better transmission quality (paragraphs 28, 29).

Regarding claim 13, Dahod teaches the first and/or second channel is/are a useful data channel (paragraphs 28, 29; both channels are capable of transporting the voice signal).

Regarding claim 14, Dahod teaches that once a second channel is established (communication link with recipients), the useful data, e.g. voice data, is sent via the second channel (paragraph 29).

Regarding claim 15, Dahod teaches the useful data is or contains voice data and/or streaming video data and/or data for interactive applications (paragraph 28).

Regarding claim 16, the limitations are rejected as applied to claim 1.

Regarding claim 17, Dahod teaches a controller, which is configured such that when a connection is established between the mobile radio terminal and one or more mobile radio users of a group, it first transmits voice data for example to a mobile radio network via a first channel also used for the transmission of signaling data (connection established when request message is sent), and once a second channel is established (reception of the response signal that they system is ready to receive the voice message), sends the voice data via the second channel (paragraph 28).

Regarding claim 18, Dahod teaches that once a second channel is established, it sends the voice data via the second channel (paragraph 28).

Regarding claim 19, Dahod teaches that once a second channel is established, it can only send voice data via the second channel (paragraph 28).



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAM HUYNH whose telephone number is (571)272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

/Nam Huynh/  
Examiner, Art Unit 2617